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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,989	03/03/2000	Charles R. Piskoti	JB-1366	6379
7590	11/04/2003		EXAMINER	
Henry P Sartorio Lawrence Berkeley Nat'l Lab Patent Dept One Cyclotron Road MS 90 1121 Berkeley, CA 94720			HENDRICKSON, STUART L	
			ART UNIT	PAPER NUMBER
			1754	18
DATE MAILED: 11/04/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
518989	<i>A. Stok</i>	
Examiner	Group Art Unit <i>Henderson</i> (154)	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

Responsive to communication(s) filed on 8/21/09

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-10

is/are pending in the application.

Of the above claim(s) _____

is/are withdrawn from consideration.

Claim(s) _____

is/are allowed.

Claim(s) 1-10

is/are rejected.

Claim(s) _____

is/are objected to.

Claim(s) _____

are subject to restriction or election requirement

Application Papers

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All Some* None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. _____.

Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other. _____

Office Action Summary

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- 1) There is no support or disclosure of making the derivatives claimed. From the phraseology used, these appear to be speculative modifications. There are no examples of a doped or surface-modified C36, much less one in which a hetero atom replaces a carbon atom in the main structure.
- 2) As the specification recites the 400 torr of helium to be an important factor in the production of C36, this feature should be incorporated into claim 6, which does not recite how the production step is done. It appears that claim 6 should state ‘.. In an arc at about 400 torr helium’.

Claims 1-10 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Service article, and/or the Nature article discussed therein.

Service reports on a Nature article, in which C36 is made and isolated. While not teaching the exact claim language, no difference is seen since it appears a solid is made.

Claims 1-5 and 10 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stankevich et al.

Stankevich teaches on pg. 172, C36. As its properties are reported, it appears to have been made and isolated.

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Applicant's arguments filed 8/28/03 have been fully considered but they are not persuasive. Previous arguments are incorporated by reference, to answer the repeated arguments made in the Brief. A 131 Declaration by all inventors appears appropriate to swear behind Service/Nature. Due to the relatively unknown properties of C48, C36, it appears the properties could not be readily calculable, so Stankevich is deemed to teach C36. As the claim recites C36 rich soot, the only way to make this is by using 400 torr He. It is a critical pressure, not 'illustrative'.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson
examiner Art Unit 1754